



State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark NJ 07102

August 31, 1999

To the Parties on the Attached Service List

**Re: In the Matter of the Request of Atlantic City Electric Company for the
Establishment of Auction Standards for the Sale of Certain Non-
Nuclear Generating Units.
Docket No. EM99080605**

**In the Matter of the Request of Atlantic City Electric Company for the
Establishment of Auction Standards for the Sale of Certain Nuclear
Generating Units.
Docket No. EM99080606**

On May 11, 1999, Atlantic City Electric Company (ACE) announced its intention to sell its nuclear and baseload fossil electric generating units. Pursuant to the Electric Discount and Energy Competition Act, P.L. 1999, c. 23, codified at N.J.S.A. 48:3-49 et seq., on August 11, 1999 ACE filed a letter petition with the Board seeking the establishment of two sets of auction standards (see attached), one for the sale of certain of its non-nuclear generating units and one for the sale of certain of its nuclear generating units. ACE in its petition is seeking the Board's approval of both of the proposed auction standards, which ACE intends to use to guide the conduct of the sale of both its non-nuclear and nuclear generating assets. The Board is considering the adoption of the proposed Auction Standards proposed by ACE for the sale of certain of its non-nuclear and nuclear generating assets. These Auction Standards, if adopted, will be in addition to the provisions of Sub-section 11(c) of the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-59(c), which will govern the Board's approval of any sale of ACE's generating assets. Parties wishing to comment on the proposed Auction Standards for the sale of ACE's non-nuclear and nuclear generating assets may do so by filing written comments with the Board by September 10, 1999.

Very truly yours,

____SIGNED____
George Riepe
Assistant Director
Division of Energy

ATLANTIC CITY ELECTRIC COMPANY
AUCTION STANDARDS FOR FOSSIL GENERATING UNITS
Docket No. EM99080605

1. The auction process must be designed to foster competition among bidders, ensure maximum sales price, thereby minimizing stranded costs, and encourage bidder flexibility. The process must be designed in a way to maintain necessary confidentiality in order to restrict the possibility of gaming and to maintain an optimal situation for the development of a comprehensive energy supply market for competition. The process must also consider the costs incurred. The auction should be structured to maximize the sale price while reasonably managing costs, administrative and otherwise. The auction process should permit sufficient flexibility so that bidders may bid on a number of generating site combinations, unless ACE can demonstrate justification for a packaged bidding structure for certain plants. Any grouping of assets for sale should balance such considerations as market demand from prospective buyers, asset characteristics, projected price, stranded costs considerations, and market power issues. In the case where packaging is permitted, bidders must still have had the ability to bid on any individual generation site or sites.
2. Bidder qualifications should be reasonable and not unduly restrictive. Qualifications may include such criteria as financial capability; regulatory or other legal requirements, experience in ownership and/or operation of electric generating facilities; labor and industrial relations experience; and relevant environmental and community involvement track records. Prospective bidders must be required to indicate the intended use of the facilities.
3. Any "short list" or final bidding group must include enough participants to provide assurance that there is sufficient competition for any particular bundle or individual plant. The Board recognizes that some of ACE's generating facilities are jointly owned. The Board further recognizes that any transaction involving those jointly owned facilities must be both consistent with the joint ownership agreements and with the existing contractual rights of the joint owners, and must also consider environmental and other issues.
4. ACE must ensure that access to all relevant information is provided to all prospective bidders (this may include but will not necessarily be limited to plant and site data; transmission and fuel supply infrastructure; interim buyback requirements, if any; State and federal regulatory requirements; relevant market information, environmental and other liabilities; labor responsibilities; industry and market analysis; and treatment of emission credits). Bidders should be provided with appropriate access to relevant documentation and key personnel to perform necessary due diligence investigations. The bidders should also be informed about regulatory and commercial terms of sale in order to make informed decisions and correctly analyze the value of the assets being offered.
5. ACE, upon completion of the auction, and as part of its request for approval, will be required to submit a market power analysis for regulatory review. ACE must demonstrate that the sale of any generating facility will not create or enhance market power in the relevant market, and should take into account the effect of any identified load pockets. The Board will give particular attention to any buyer which currently owns or controls electric generation assets in the State of New Jersey.

6. ACE must demonstrate that it has adequately provided for system reliability and the provision of safe, adequate, and reliable service post-divestiture. ACE must demonstrate that there will be an entity or structure in place for it to meet the reasonably anticipated load requirements (including basic generating service) through retail phase-in, and provide local area support, if necessary. Buyers must be required to become a member of the local control area independent system operator entity and meet all applicable operational and reliability standards.
7. Absent a showing by ACE that retention of such liabilities provides a substantial risk-adjusted benefit to ratepayers, all on-site environmental liabilities associated with the auctioned property shall be assumed by the purchaser unless otherwise required by applicable local, State, and federal laws. The buyer(s) shall comply with all environmental standards as embodied in existing State and federal statutes and regulations and associated permits, and as subsequently modified through legislative or regulatory actions.
8. All bidders on the short list, or in the final bidding group, shall be required to submit to ACE, on a confidential basis, a disclosure of all formal notices of violation of local, State, and federal environmental permits applicable to the ownership or operation of electric generating facilities for the past five year period. The environmental performance record for the proposed buyer(s) shall be submitted and made public as part of the petition by ACE for approval of the sale.
9. The divestiture petition must include a reasonable transition plan, plus a system of reporting such plans, for the incumbent generation workforce, including, but not limited to, assurances that existing pension and other post-retirement benefits and entitlements accrued through the date of sale are protected, and requirements that the buyer assume any existing collective bargaining agreements covering union employees associated with these facilities. In addition, ACE is expected to assist employees (both union and non-union) in obtaining positions with the buyer(s).
10. Upon completion of the auction process, and with its petition for approval of the sale, ACE shall be required to submit a complete and accurate summary of the auction proceedings and outcome. ACE must be prepared to provide to the Board in writing the rationale behind the exclusion of any bidder at each stage of the action process.

ATLANTIC CITY ELECTRIC COMPANY
AUCTION STANDARDS FOR NUCLEAR GENERATING UNITS
Docket No. EM99080606

1. The auction process must be designed to foster competition among bidders, ensure maximum sales price, thereby minimizing stranded costs, and encourage bidder flexibility. The process must be designed in a way to maintain necessary confidentiality in order to restrict the possibility of gaming and to maintain an optimal situation for the development of a comprehensive energy supply market for competition. The process must also consider the costs incurred. The auction should be structured to maximize the sale price while reasonably managing costs, administrative and otherwise.
2. Bidder qualifications should be reasonable and not unduly restrictive. Qualifications may include such criteria as financial capability; regulatory or other legal requirements, experience in ownership, operation and decommissioning of nuclear generating facilities; labor and industrial relations experience; and relevant safety, environmental and community involvement track records. Prospective bidders must be required to indicate the intended use of the nuclear generating facilities.
3. Any "short list" or final bidding group must strive to include enough participants to promote competition, to the extent practicable recognizing that there may be a limited market for nuclear power plants approaching decommissioning. The Board recognizes that some of ACE's generating facilities are jointly owned. The Board further recognizes that any transaction involving those jointly owned facilities must be both consistent with the joint ownership agreements and with the existing contractual rights of the joint owners, and must also consider tax consequences, nuclear decommissioning trust funding, and other issues.
4. ACE must ensure that access to all relevant information is provided to all prospective bidders (this may include but will not necessarily be limited to plant and site data; transmission and fuel supply infrastructure; interim buyback requirements, if any; State and federal regulatory requirements; relevant market information, environmental, decommissioning, and other liabilities; labor responsibilities; industry and market analysis). Bidders should be provided with appropriate access to relevant documentation and key personnel to perform necessary due diligence investigations. The bidders should also be informed about regulatory and commercial terms of sale in order to make informed decisions and correctly analyze the value of the assets being offered.
5. ACE, upon completion of the auction, and as part of its request for approval, will be required to submit a market power analysis for regulatory review. ACE must demonstrate that the sale of the nuclear facilities will not create or enhance market power in the relevant market, and should take into account the effect of any identified load pockets. The Board will give particular attention to any buyer which currently owns or controls electric generation assets in the State of New Jersey.
6. ACE must demonstrate that it has adequately provided for system reliability and the provision of safe, adequate, and reliable service post-divestiture. ACE must demonstrate that there will be an entity or structure in place for it to meet the reasonably anticipated load requirements (including basic generating service) through retail phase-in, and provide local area support, if necessary. The buyer should commit to adhere to requirements of the local control area independent system operator entity

and all applicable operational and reliability standards.

7. Absent a showing by ACE that retention of such liabilities provides a substantial risk-adjusted benefit to ratepayers, all on-site environmental and decommissioning liabilities associated with the nuclear generating facilities shall be assumed by the purchaser unless otherwise required by applicable local, State, and federal laws. The buyer shall comply with all safety and environmental standards as embodied in existing State and federal statutes and regulations and associated permits, and as subsequently modified through legislative or regulatory actions.
8. All bidders on the short list, or in the final bidding group, shall be required to submit to ACE, on a confidential basis, a disclosure of all formal notices of violation of local, State, and federal environmental permits applicable to the ownership or operation of electric generating facilities for the past five year period. The safety and environmental performance record for the proposed buyer shall be submitted and made public as part of the petition by ACE for approval of the sale.
9. The divestiture petition must include a reasonable transition plan, plus a system of reporting such plans, for the incumbent generation workforce, including, but not limited to, assurances that existing pension and other post-retirement benefits and entitlements accrued through the date of sale are protected, and requirements that the buyer assume any existing collective bargaining agreements covering union employees associated with the nuclear generating facilities. In addition, ACE is expected to assist employees (both union and non-union) in obtaining positions with the buyer.
10. Upon completion of the auction process, and with its petition for approval of the sale, ACE shall be required to submit a complete and accurate summary of the auction proceedings and outcome. ACE must be prepared to provide to the Board in writing the rationale behind the exclusion of any bidder at each stage of the action process.